

Bill No. SB 1182

Barcode 682172

586-1690A-06

Proposed Committee Substitute by the Committee on Children and Families

1 A bill to be entitled
2 An act relating to adult protective services;
3 amending s. 415.102, F.S.; redefining the term
4 "abuse" to include actions by a relative or a
5 household member which are likely to harm a
6 vulnerable adult; redefining the term "neglect"
7 to include actions of a vulnerable adult
8 against himself or herself; amending s.
9 415.1051, F.S.; providing for the Department of
10 Children and Family Services to petition the
11 court for an order authorizing the provision of
12 protective services for a vulnerable adult in
13 need of services; amending s. 415.107, F.S.;
14 authorizing the Agency for Persons with
15 Disabilities to have access to certain
16 otherwise confidential records and reports;
17 providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsections (1) and (15) of section
22 415.102, Florida Statutes, are amended to read:

23 415.102 Definitions of terms used in ss.

24 415.101-415.113.--As used in ss. 415.101-415.113, the term:

25 (1) "Abuse" means any willful act or threatened act by
26 a relative, caregiver, or household member which ~~that~~ causes
27 or is likely to cause significant impairment to a vulnerable
28 adult's physical, mental, or emotional health. Abuse includes
29 acts and omissions.

30 (15) "Neglect" means the failure or omission on the
31 part of the caregiver or vulnerable adult to provide the care,

586-1690A-06

1 supervision, and services necessary to maintain the physical
2 and mental health of the vulnerable adult, including, but not
3 limited to, food, clothing, medicine, shelter, supervision,
4 and medical services, which ~~that~~ a prudent person would
5 consider essential for the well-being of a vulnerable adult.
6 The term "neglect" also means the failure of a caregiver or
7 vulnerable adult to make a reasonable effort to protect a
8 vulnerable adult from abuse, neglect, or exploitation by
9 others. "Neglect" is repeated conduct or a single incident of
10 carelessness which produces or could reasonably be expected to
11 result in serious physical or psychological injury or a
12 substantial risk of death.

13 Section 2. Subsection (1) of section 415.1051, Florida
14 Statutes, is amended to read:

15 415.1051 Protective services interventions when
16 capacity to consent is lacking; nonemergencies; emergencies;
17 orders; limitations.--

18 (1) NONEMERGENCY PROTECTIVE SERVICES

19 INTERVENTIONS.--If the department has reasonable cause to
20 believe that a vulnerable adult or a vulnerable adult in need
21 of services is being abused, neglected, or exploited and is in
22 need of protective services but lacks the capacity to consent
23 to protective services, the department shall petition the
24 court for an order authorizing the provision of protective
25 services.

26 (a) Nonemergency protective services petition.--The
27 petition must state the name, age, and address of the
28 vulnerable adult, allege specific facts sufficient to show
29 that the vulnerable adult is in need of protective services
30 and lacks the capacity to consent to them, and indicate the
31 services needed.

Bill No. SB 1182

Barcode 682172

586-1690A-06

1 (b) Notice.--Notice of the filing of the petition and
2 a copy of the petition must be given to the vulnerable adult,
3 to that person's spouse, guardian, and legal counsel, and,
4 when known, to the adult children or next of kin of the
5 vulnerable adult. Such notice must be given at least 5 days
6 before the hearing.

7 (c) Hearing.--

8 1. The court shall set the case for hearing within 14
9 days after the filing of the petition. The vulnerable adult
10 and any person given notice of the filing of the petition have
11 the right to be present at the hearing. The department must
12 make reasonable efforts to ensure the presence of the
13 vulnerable adult at the hearing.

14 2. The vulnerable adult has the right to be
15 represented by legal counsel at the hearing. The court shall
16 appoint legal counsel to represent a vulnerable adult who is
17 without legal representation.

18 3. The court shall determine whether:

19 a. Protective services, including in-home services,
20 are necessary.

21 b. The vulnerable adult lacks the capacity to consent
22 to the provision of such services.

23 (d) Hearing findings.--If at the hearing the court
24 finds by clear and convincing evidence that the vulnerable
25 adult is in need of protective services and lacks the capacity
26 to consent, the court may issue an order authorizing the
27 provision of protective services. If an order for protective
28 services is issued, it must include a statement of the
29 services to be provided and designate an individual or agency
30 to be responsible for performing or obtaining the essential
31 services on behalf of the vulnerable adult or otherwise

Bill No. SB 1182

Barcode 682172

586-1690A-06

1 consenting to protective services on behalf of the vulnerable
2 adult.

3 (e) Continued protective services.--

4 1. No more than 60 days after the date of the order
5 authorizing the provision of protective services, the
6 department shall petition the court to determine whether:

7 a. Protective services will be continued with the
8 consent of the vulnerable adult pursuant to subsection (1);

9 b. Protective services will be continued for the
10 vulnerable adult who lacks capacity;

11 c. Protective services will be discontinued; or

12 d. A petition for guardianship should be filed
13 pursuant to chapter 744.

14 2. If the court determines that a petition for
15 guardianship should be filed pursuant to chapter 744, the
16 court, for good cause shown, may order continued protective
17 services until it makes a determination regarding capacity.

18 (f) Costs.--The costs of services ordered under this
19 section must be paid by the perpetrator if the perpetrator is
20 financially able to do so; or by third-party reimbursement, if
21 available. If the vulnerable adult is unable to pay for
22 guardianship, application may be made to the public guardian
23 for public guardianship services, if available.

24 Section 3. Paragraphs (a) and (h) of subsection (3) of
25 section 415.107, Florida Statutes, are amended to read:

26 415.107 Confidentiality of reports and records.--

27 (3) Access to all records, excluding the name of the
28 reporter which shall be released only as provided in
29 subsection (6), shall be granted only to the following
30 persons, officials, and agencies:

31 (a) Employees or agents of the department, of the

Bill No. SB 1182

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586-1690A-06

1 Agency for Health Care Administration, the Agency for Persons
2 with Disabilities, or ~~of~~ the Department of Elderly Affairs who
3 are responsible for carrying out protective investigations,
4 ongoing protective services, or licensure or approval of
5 nursing homes, assisted living facilities, adult day care
6 centers, adult family-care homes, home care for the elderly,
7 hospices, or other facilities used for the placement of
8 vulnerable adults.

9 (h) Any appropriate official of the department, ~~of~~ the
10 Agency for Health Care Administration, the Agency for Persons
11 with Disabilities, or ~~of~~ the Department of Elderly Affairs who
12 is responsible for:

13 1. Administration or supervision of the programs for
14 the prevention, investigation, or treatment of abuse, neglect,
15 or exploitation of vulnerable adults when carrying out an
16 official function; or

17 2. Taking appropriate administrative action concerning
18 an employee alleged to have perpetrated abuse, neglect, or
19 exploitation of a vulnerable adult in an institution.

20 Section 4. This act shall take effect upon becoming a
21 law.

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